

ASSEMBLY BILL

No. 1165

Introduced by Assembly Member Bogh

February 22, 2005

An act to amend Section 25519 of the Public Resources Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1165, as introduced, Bogh. Energy resources: certification: environmental documents.

The existing Warren-Alquist State Energy Resources Conservation and Development Act requires that the State Energy Resources Conservation and Development Commission be the lead agency for all projects that require certification under the act, and for projects that are exempted from certification. The act requires any other public agency that must make a decision that is subject to the California Environmental Quality Act (CEQA), if the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to CEQA, on a site or related facility, to use the document or documents, in the same manner as it would use an environmental impact report or negative declaration prepared by a lead agency.

This bill, instead, would require any other agency that must make a decision that is subject to CEQA, on a site or related facility, if the commission's regulatory program is certified pursuant to CEQA, to use the final staff assessment or any other environmental document, prepared in advance of the final decision under the commission's certified regulatory program, that describes the project, analyzes the significant environmental impacts of the project, and discusses feasible alternatives and mitigation measures that could avoid or

minimize the project's significant adverse impacts, in the same manner as it would use an environmental impact report or negative declaration prepared by a lead agency. The bill would require the commission or its staff, prior to completing the final staff assessment or other environmental document, to consult with all agencies that inform the commission of the need to review an environmental document to make a decision on a site or related facility.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25519 of the Public Resources Code is
2 amended to read:

3 25519. (a) In order to obtain certification for a site and
4 related facility, an application for certification of the site and
5 related facility shall be filed with the commission. The
6 application shall be in a form prescribed by the commission and
7 shall be for a site and related facility that has been found to be
8 acceptable by the commission pursuant to Section 25516, or for
9 an additional facility at a site that has been designated a potential
10 multiple-facility site pursuant to Section 25514.5 and found to be
11 acceptable pursuant to Sections 25516 and 25516.5. An
12 application for an additional facility at a potential
13 multiple-facility site shall be subject to the conditions and review
14 specified in Section 25520.5. An application may not be filed for
15 a site and related facility, if there is no suitable alternative for the
16 site and related facility that was previously found to be
17 acceptable by the commission, unless the commission has
18 approved the notice based on the one site as specified in Section
19 25516.

20 (b) The commission, upon its own motion or in response to the
21 request of any party, may require the applicant to submit any
22 information, document, or data, in addition to the attachments
23 required by subdivision (i), that it determines is reasonably
24 necessary to make any decision on the application.

25 (c) The commission shall be the lead agency as provided in
26 Section 21165 for all projects that require certification pursuant
27 to this chapter and for projects that are exempted from such
28 certification pursuant to Section 25541. Unless the commission's

1 regulatory program governing site and facility certification and
2 related proceedings are certified by the Resources Agency
3 pursuant to Section 21080.5, an environmental impact report
4 shall be completed within one year after receipt of the
5 application. If the ~~commission prepares a document or~~
6 ~~documents in the place of an environmental impact report or~~
7 ~~negative declaration under a~~ *commission's* regulatory program is
8 certified pursuant to Section 21080.5, any other public agency
9 that must make a decision that is subject to the California
10 Environmental Quality Act, Division 13 (commencing with
11 Section 21000), on a site or related facility, shall use the
12 ~~document or documents prepared by the commission~~ *final staff*
13 *assessment or any other environmental document, prepared in*
14 *advance of the final decision under the commission's certified*
15 *regulatory program, that describes the project, analyzes the*
16 *significant environmental impacts of the project, and discusses*
17 *feasible alternatives and mitigation measures that could avoid or*
18 *minimize the project's significant adverse impacts. The agency*
19 *shall use such a document in the same manner as* ~~they~~ *it would*
20 *use an environmental impact report or negative declaration*
21 *prepared by a lead agency. Prior to completing the final staff*
22 *assessment or other environmental document, the commission or*
23 *its staff shall consult with all agencies that inform the*
24 *commission of the need to review an environmental document to*
25 *make a decision on a site or related facility. The purpose of the*
26 *consultation shall be to assist the commission or its staff in*
27 *determining the scope and content of environmental review*
28 *related to each agency's concerns and area of expertise.*

29 (d) If the site and related facility specified in the application is
30 proposed to be located in the coastal zone, the commission shall
31 transmit a copy of the application to the California Coastal
32 Commission for its review and comments.

33 (e) If the site and related facility specified in the application is
34 proposed to be located in the Suisun Marsh or the jurisdiction of
35 the San Francisco Bay Conservation and Development
36 Commission, the commission shall transmit a copy of the
37 application to the San Francisco Bay Conservation and
38 Development Commission for its review and comments.

39 (f) Upon receipt of an application, the commission shall
40 forward the application to local governmental agencies having

1 land use and related jurisdiction in the area of the proposed site
2 and related facility. Those local agencies shall review the
3 application and submit comments on, among other things, the
4 design of the facility, architectural and aesthetic features of the
5 facility, access to highways, landscaping and grading, public use
6 of lands in the area of the facility, and other appropriate aspects
7 of the design, construction, or operation of the proposed site and
8 related facility.

9 (g) Upon receipt of an application, the commission shall cause
10 a summary of the application to be published in a newspaper of
11 general circulation in the county in which the site and related
12 facilities, or any part thereof, designated in the application, is
13 proposed to be located. The commission shall transmit a copy of
14 the application to each federal and state agency having
15 jurisdiction or special interest in matters pertinent to the proposed
16 site and related facilities and to the Attorney General.

17 (h) Local and state agencies having jurisdiction or special
18 interest in matters pertinent to the proposed site and related
19 facilities shall provide their comments and recommendations on
20 the project within 180 days of the date of filing of an application.

21 (i) The adviser shall require that adequate notice is given to
22 the public and that the procedures specified by this division are
23 complied with.

24 (j) For any proposed site and related facility requiring a
25 certificate of public convenience and necessity, the commission
26 shall transmit a copy of the application to the Public Utilities
27 Commission and request the comments and recommendations of
28 the Public Utilities Commission on the economic, financial, rate,
29 system reliability, and service implications of the proposed site
30 and related facility. If the commission requires modification of
31 the proposed facility, the commission shall consult with the
32 Public Utilities Commission regarding the economic, financial,
33 rate, system reliability, and service implications of those
34 modifications.

35 (k) The commission shall transmit a copy of the application to
36 any governmental agency not specifically mentioned in this act,
37 but which it finds has any information or interest in the proposed
38 site and related facilities, and shall invite the comments and
39 recommendations of each agency. The commission shall request

1 any relevant laws, ordinances, or regulations that an agency has
2 promulgated or administered.
3 (I) An application for certification of any site and related
4 facilities shall contain a listing of every federal agency from
5 which any approval or authorization concerning the proposed site
6 is required, specifying the approvals or authorizations obtained at
7 the time of the application and the schedule for obtaining any
8 approvals or authorizations pending.

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